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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,314	05/21/2001	Joon Young Yoon	0255-0003	6556

7590

05/18/2004

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EXAMINER

SALVATORE, LYNDIA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/856,314	Applicant(s) YOON ET AL.	
	Examiner Lynda M Salvatore	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendments, substitute specification and accompanying remarks filed 02/17/04 have been fully considered and entered. The abstract, and claims 1-4 and 9 have been amended as requested. Applicant's substitute specification is found sufficient to obviate the objection set forth in section 2 of the last Office Action. As such, this objection is hereby withdrawn. Applicant's amendments have been found sufficient to overcome the rejection of claims 1,2,4, and 6 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Scholz et al., US 5,512,354 as set forth in section 12 of the last Office Action as well as the rejection of dependent claims 3 and 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Scholz et al., US 5,512,354 as set forth in sections 14 and 15 of the last Office Action. Specifically, the prior art of Scholz et al., fails to teach a fabric having a raised surface. As such, these rejections are hereby withdrawn. Despite this advance however, Applicant's amendments are not found patently distinguishable and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

Claim Rejections - 35 USC § 112, 1st paragraph

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1 and 8 stand rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the

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invention. Applicant amended claim 1 to recite “ply” instead of “layer”. Applicant asserts that the specification is abundantly clear with regard to construction of the three ply warp knit and further asserts that one of skill in the art would be reasonably apprised of the use of a three-bar knitting machine to make a three ply knit fabric. These arguments are not found persuasive. With regard to the use of the term “ply” instead of “layer” it is the position of the Examiner that the use of “ply” is equivalent to the term “layer”. The issue remains *how* the yarns are structurally related to form a three ply knit fabric. The specification as originally filed does not enable a three layer or three ply knit fabric. It is also the position of the Examiner that the Applicant’s use of the term “ply” is still contrary to the accepted meaning in general, and in knit art, in particular. Though Applicant employs the term “ply” to refer to the construction of the knit fabric, no definition of “ply” is given in the specification. A three “ply” implies a fabric implies a knit spacer fabric having two separate layers interstitched with a middle layer. However, it does not appear that Applicant’s invention encompasses this type of fabric. With regard to the use of a three bar knitting machine to make a three ply knit fabric, the Examiner asserts that a three bar knitting machine does not produce the Applicant’s three plied knit fabric. A three bar knitting machine is known to produce a single layer knit fabric having distinct technical and rear faces. Additionally, it is also known to insert yarns within said single layer knit. However, assuming that the three bar knitting machine suggested by the Applicant did produce a three ply knit fabric, the Examiner would like to point out that the specification does not enable the use of such an apparatus to make a three ply knit fabric. It can only be assumed by the Examiner that perhaps the Applicant is claiming the product of a three bar knitting machine having three different yarns, but nowhere in the specification is this product enabled for

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a three bar knitting machine. Additionally, claims 2-7 and 9 are further rejected for their dependency on claims 1 and 8.

Claim Rejections - 35 USC § 112, 2nd paragraph

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1 and 8 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Additionally, claims 2-7 and 9 are further rejected for their dependency on claims 1 and 8.

Specifically, claims 1 and 8 are indefinite for reasons set forth in section 6 of the last Office Action. Applicant has not amended claims 1 and 8 such that the claimed subject matter is consistent with the accepted meaning of a warp knit.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482.

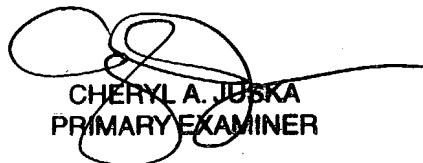
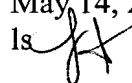
The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 14, 2004

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CHERYL A. JUSKA
PRIMARY EXAMINER